

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

Jesse Baker	:	CIVIL ACTION
	:	
	:	
v.	:	
	:	
SGT. Olley Wilson, <i>et al.</i>	:	NO. 02-5313
	:	

O R D E R

Plaintiff, a prisoner proceeding *pro se*, alleges that Defendants, officers in the Bucks County Sheriff's Department, used unnecessary force in removing him from his cell, causing his colostomy bag to break. Defendants have moved to dismiss the amended complaint on the grounds that it fails to state a cause of action because Plaintiff admits that he had contraband (tobacco) and the force used was reasonable. In the context of a motion to dismiss, I cannot determine that the force used was not excessive.

AND NOW, this 15th day of May 2006, IT is hereby ORDERED that:

1. Defendants' Motion to Dismiss the Amended Complaint is DENIED.
2. Plaintiff's Motion to Withdraw a Defendant is GRANTED. The "Entire Bucks County Sherrifs Department" has been terminated as a Defendant.

BY THE COURT:

/s/ John P. Fullam
Fullam, Sr. J.